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| 45209  | 7590        | 07/13/2009           |                             |                        |
| INTEL/BSTZ<br>BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP<br>1279 OAKMEAD PARKWAY<br>SUNNYVALE, CA 94085-4040 |             |                      | EXAMINER<br>BENGZON, OREG C |                        |
|  |             |                      | ART UNIT<br>2444            | PAPER NUMBER           |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/574,319

**Applicant(s)**

SUN ET AL.

**Examiner**

GREG BENZON

**Art Unit**

2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 05/06/2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This application has been examined. Claims 1-18 are pending.

#### ***Making Final***

Applicant's arguments filed 04/07/2009 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*requesting, when the first client has completed download of the file from the server device, with a second client device from the multiple client devices packets of data not received by the second client device, wherein in the request utilizes a reliable protocol.*' -- do not overcome the disclosure by the prior art as applied in the prior Office Action, as shown below.

The Examiner is maintaining the rejection(s) using the same grounds for rejection and thus making this action FINAL.

#### ***Response to Arguments***

Applicant's arguments filed 04/07/2009 have been fully considered but they are not persuasive.

The USC 101 rejection for Claims 7-12, 17 is withdrawn. As per amendment to Applicant Specification Page 2 the computer-readable medium is a computer storage medium.

The Applicant presents the following argument(s) [*in italics*]:

*... neither Marchand nor Bailey, alone or in combination, can teach or suggest the use of two protocols in the manner recited in the claims.*

The Examiner respectfully disagrees with the Applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., '*use of two protocols*') are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Bailey disclosed a multicasting protocol using the TFTP Multicast option. Further Marchand Paragraph 55 disclosed sending a request using a multicasting protocol which is a reliable protocol for determining which file transfers occurred while the requesting slave process was non-operational.

### ***Priority***

This application claims benefits of priority from PCT Application  
PCT/CN2005/000264 filed March 7, 2005.

The effective date of the claims described in this application is March 7, 2005.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 05/06/2009 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5,7-11,13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey (US Patent 6185623) further in view of Marchand (US Publication 2008/0168157).

Bailey disclosed (re. Claim 1) a method comprising: receiving a request from a first client device to download a file to be transmitted as a plurality of packets of data from a server device; (Bailey-Column 3 Lines 25-45, Column 4 Lines 5-15)

However Bailey did not disclose (re. Claim 1 ) multicasting the plurality of packets to multiple client devices including the first client device and requesting, when the first client has completed download of the file, with a second client device from the multiple client devices the packets not received by the second client device wherein the request utilizes a reliable protocol.

Marchand disclosed (re. Claim 1) multicasting the plurality of packets to multiple client devices including the first client device (Marchand- Paragraph 50-Paragraph 53, Paragraph 57) and requesting, when the first client has completed download of the file, using a reliable protocol with a second client device from the multiple client devices packets not received by the second client device (Marchand- Paragraph 50-Paragraph 53, Paragraph 57, Paragraph 64) wherein the request utilizes a reliable protocol. (Marchand Paragraph 55)

Marchand Paragraph 55 disclosed sending a request using a multicasting protocol which is a reliable protocol for determining which file transfers occurred while the requesting slave process was non-operational.

Bailey and Marchand are analogous art because they present concepts and practices regarding data transfer using TFTP. At the time of the invention it would have been obvious to combine Marchand into Bailey. The motivation for said combination would have been to enable a connectionless model where, without any preceding

protocol exchange, file fragments can be exchanged among cooperating processes.  
(Marchand-Paragraph 53)

Claim 7 (re. computer readable medium) is rejected on the same basis as Claim  
1.

Claim 13 (re. a system) is rejected on the same basis as Claim 1.

The motivation to combine described in Claim 1 applies to Claims 7,13.

Bailey-Marchand disclosed (re. Claim 2,8,14) wherein the multicasting of the plurality of packets comprises multicasting to the multiple clients using a multicast Trivial File Transfer Protocol (TFTP). (Bailey-Column 3 Lines 25-45, Column 4 Lines 5-15)

The motivation to combine described in Claim 1 applies to Claims 2,8,14.

Bailey-Marchand disclosed (re. Claim 3,9,15) wherein the reliable protocol comprises a Trivial File Transfer Protocol (TFTP). (Bailey-Column 3 Lines 25-45, Column 4 Lines 5-15)

The motivation to combine described in Claim 1 applies to Claims 3,9,15.

Bailey-Marchand disclosed (re. Claim 4,10,16) wherein the download of the file occurs during a pre-boot phase of the first client device. (Bailey-Fig. 13a-Fig. 13d, Column 11 Lines 45-55)

The motivation to combine described in Claim 1 applies to Claims 4,10,16.

Bailey-Marchand disclosed (re. Claim 5,11,17) wherein the file comprises a boot image for the first client device. (Bailey-Fig. 13a-Fig. 13d, Column 11 Lines 45-55)

The motivation to combine described in Claim 1 applies to Claims 5,11,17.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



Claims 6,12, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bailey (US Patent 6185623) further in view of Marchand (US Publication 2008/0168157) further in view of Riedle (US Patent 6983334 ).

While Bailey-Marchand substantially disclosed the claimed invention Bailey-Marchand did not disclose (re. Claim 6,12,18) wherein the second client device tracks packet gaps within the requested file and the size of the packet gaps during the multicast of the file.

Riedle disclosed (re. Claim 6,12,18) wherein the second client device tracks packet gaps within the requested file and the size of the packet gaps during the multicast of the file. (Riedle-Column 5 Lines 5-15, 'array holes', Column 8 Lines 30-45, Column 9 Lines 50-65)

Bailey, Marchand and Riedle are analogous art because they present concepts and practices regarding data transfer using TFTP. At the time of the invention it would have been obvious to combine Riedle into Bailey-Marchand. The motivation for said combination would have been to enable efficiently tracking lost packets of a file being transferred on a multicast network to a receiving client where the tracking system is dynamically scalable to accommodate extremely large files. (Riedle-Column 4 Lines 45-55)

### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/574,319  
Art Unit: 2444

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/G. B./  
Examiner, Art Unit 2444

/William C. Vaughn, Jr./  
Supervisory Patent Examiner, Art Unit 2444